

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WYLIE G. MILLS,

Plaintiff,

v.

YAKIMA COUNTY AUDITOR CORKIE
MATTINGLY, RON ZIRKLE
PROSECUTING ATTORNEY, CITY OF
YAKIMA et al., CITY OF SELAH
et al., and YAKIMA HERALD
REPUBLIC,

Defendants.

NO. CV-05-3085-EFS

**ORDER DISMISSING COMPLAINT FOR
LACK OF JURISDICTION**

On September 13, 2005, the Court entered an Order Requiring Plaintiff to File an Amended Complaint Complying with Federal Rule of Civil Procedure 8(a). (Ct. Rec. 11.) Thereafter, on September 22, 2005, Plaintiff filed a seconded amended complaint (Ct. Rec. 14). This complaint is largely similar to the September 7, 2005, complaint (Ct. Rec. 10) and does not remedy the failure to provide "a short and plain statement of the grounds upon which the court's jurisdiction depends[.]" FED. R. CIV. P. 8(a)(1). Thereupon, the Court issued another Order requiring Plaintiff to file an amended complaint over which the Court would have jurisdiction and cautioning Plaintiff that failure to do so

1 would result in dismissal of the lawsuit. (Ct. Rec. 23.) Plaintiff
2 filed a third amended complaint on October 24, 2005. (Ct. Rec. 25.)

3 In the third amended complaint, Plaintiff apparently contends he
4 need not provide "a short and plain statement on the grounds upon which
5 the court's jurisdiction depends," FED. R. CIV. P. 8(a)(1), relying on the
6 following "exception" clause of this section "unless the court already
7 has jurisdiction and the claims need no new grounds of jurisdiction to
8 support it." Plaintiff states "[t]he court has, and has always had
9 Jurisdiction." (Ct. Rec. 25 at 2.) However, the Court has issued two
10 orders advising Plaintiff the Court did not have jurisdiction and
11 requiring Plaintiff to establish under either 28 U.S.C. § 1331 (federal
12 question) or 28 U.S.C. § 1332 (diversity jurisdiction) that the Court has
13 jurisdiction; thus, the Rule 8(a)(1) exception clause is inapplicable.¹
14 The third amended complaint does not cite to a federal statute or
15 identify the citizenship of Defendants as a state other than Washington.
16 Accordingly, the Court concludes it does not have jurisdiction based
17 either on a federal question or diversity of citizenship. **THEREFORE, IT**
18 **IS HEREBY ORDERED:** Plaintiff's third amended complaint (Ct. Rec. 25.),
19 filed on October 24, 2005, is **DISMISSED**. Judgment should be **entered**
20 **without prejudice** against Plaintiff and this case shall be **closed**.

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23 ¹ An example of when Rule 8(a)(1)'s exception clause would apply
24 is if the Court had previously found that it had jurisdiction and then
25 Plaintiff filed an amended complaint adding a new claim and the claim
26 needed no new grounds of jurisdiction to support it.

1 Plaintiff shall file no further filings, including any request for
2 reconsideration, in this matter.

3 IT IS SO ORDERED. The District Court Executive is directed to

4 (A) Enter this Order;

5 (B) Provide a copy to the Plaintiff.

6 DATED this 27th day of October, 2005.

7
8 S/ Edward F. Shea
9 EDWARD F. SHEA
United States District Judge

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